



2025:DHC:6385-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment reserved on: 21.07.2025
Judgment pronounced on: 04.08.2025

+ **MAT.APP.(F.C.) 174/2023 & CM APPL. 30959/2023 (for delay)**

YASHWANI VERMA

.....Appellant

Through: Mr. Adarsh Kumar, Advocate.

Versus

VIRENDER VERMA

.....Respondent

Through: Mr. Himanshu, Advocate.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

CM APPL. 30959/2023 (for condonation of delay)

1. By way of the present application filed under Section 5 of the Limitation Act, 1963, the Applicant/Appellant seeks condonation of delay of **65 days** in filing the present appeal.
2. For the sufficient reasons stated in the application, the delay is condoned.
3. Accordingly, the present application stands disposed of.



MAT. APP. (F.C) NO.174/2023

4. This Appeal has been filed by the Appellant under Section 19 of the Family Courts Act, 1984, challenging the **Order dated 08.02.2023¹** passed by the **learned Principal Judge, Family Courts, North District, Rohini Courts, Delhi²** in HMA No. 290/2021, titled as “*Yashwani Verma v. Virender Verma & Anr.*”, whereby the application filed by Appellant under Section 24 of the **Hindu Marriage Act, 1955³**, seeking maintenance for herself, came to be dismissed.

FACTS OF THE CASE:

5. The facts germane leading up to the institution of the present Appeal are as follows:

- I. The matrimonial alliance between the Appellant and the Respondent was solemnised on 22.03.1978 at 4, Cavalry Lines, The Mall, New Delhi, in accordance with Hindu rites and sacraments. Subsequently, two sons were born out of the said wedlock, namely Himavan Verma and Vikas Verma, born on 24.11.1980 and 11.05.1986, respectively.
- II. The Appellant, aged more than 70 years, is a qualified individual, possessing significant academic qualifications. She was employed as a Senior Teacher at St. Xavier’s Senior Secondary School, New Delhi, and superannuated from service in July 2014. Prior to her retirement, she was drawing a monthly salary of ₹64,150/-, and is presently in receipt of a

¹ Impugned Order

² Family Court

³ Act



pension of approximately ₹2,000/- per month. It stands placed on record that the Appellant is residing with her two sons, both of whom are majors and gainfully employed.

- III. The Respondent, aged around 73 years, was formerly employed with Reliance Communication, where he served until his retirement in the year 2017. It is stated that, owing to the financial collapse and insolvency of the said company, he was deprived of his retiral benefits, including pension and final settlement dues. The Respondent contends that he is unemployed, and is devoid of any independent source of income.
- IV. The parties began residing separately in the year 1987, following a prolonged period marked by mutual discord. Subsequently, owing to continued differences, the Appellant and Respondent agreed to dissolve their marriage by mutual consent, and a joint petition for divorce under Section 13B of the Act was filed in the year 2003. However, the Appellant later withdrew her consent, and the proceedings did not culminate in a decree of divorce.
- V. A perusal of the present Appeal suggests that the Appellant, aggrieved by the Respondent's purported act of solemnizing a second marriage during the subsistence of their lawful matrimonial alliance, instituted a petition under Section 17 of the Act bearing HMA No. 290/2021 on 24.02.2021, seeking a declaration that the alleged subsequent marriage contracted by the Respondent is null and *void ab initio*, being in contravention of the statutory mandate against bigamy enshrined under the



Act. The said petition remains pending adjudication before the Ld. Family Court.

- VI. During the pendency of the aforesaid petition, the Appellant preferred an application under Section 24 of the Act, praying for interim maintenance in the quantum of ₹60,000/- per month, and litigation expenses amounting to ₹1,00,000/-.
- VII. Subsequently, *vide* order dated 08.02.2023, the Family Court, dismissed the Appellant's application under Section 24 of the Act, seeking interim maintenance, after taking note of the financial means of both parties and the surrounding circumstances and held as follows:

“There are rival contentions made by the parties regarding their act and conduct and also about financial status of each other. A final opinion about the rival contentions can be made only with the help of evidence and at this interim stage, a prima-facie view is to be made on the basis of material available on record at this stage. Perusal of record shows that both the parties i.e. petitioner and respondent no. 1 are aged around 70 years. Though both of them have claimed that they do not have any income but the documents filed by them in form of bank statement and ITR shows that both of them have income as there are several heavy credit and debit entries in their bank accounts. Admittedly, the petitioner is residing with her sons who are major and both are earning. The purpose of section 24 HMA is to provide maintenance, pendente lite and expenses of proceedings to the litigating spouse either wife or husband, if she/he has no independent/sufficient income to maintain herself/himself during pendency of the proceedings. If the material available on record is analyzed, it can be concluded that the petitioner has sufficient income to maintain herself. Moreover, it is also clear from the record that parties are living separately for several years and submissions of Ld. Counsel for respondent is found to be forceful that they are living separately with mutual consent. In that case the claim qua maintenance comes under doubt by virtue of section 125 (4) Cr.P.C. In view of above discussion, it is clear that the petitioner is not entitled



to any maintenance from the respondent no. 1 at this stage. With these observations, the application u/sec. 24 HMA is accordingly dismissed.”

CONTENTIONS OF THE APPELLANT:

6. The Appellant avers that following her retirement from the position of Senior School Teacher in July 2014, she has been compelled to contend with the inevitable consequences of advancing age, including a steady decline in health and an ever-increasing burden of medical expenses, requiring continuous treatment, care, and financial outlay.

7. The Appellant further contends that, post-retirement, she is not in receipt of any substantial or sustainable source of income that would enable her to maintain herself with dignity and in a manner befitting her previous standard of living. It is thus submitted that, in the absence of adequate financial means, she is entitled to claim interim maintenance and litigation expenses from the Respondent, in accordance with the statutory mandate of Section 24 of the Act.

CONTENTIONS OF THE RESPONDENT:

8. *Per contra*, the Respondent filed a detailed reply, opposing the reliefs sought by the Appellant. The respondent contended, *inter alia*, that the Appellant is a well-educated woman, armed with multiple academic qualifications including B.A. (Hons.), M.A., B.Ed., M.Ed., and M.Phil., and that she had retired from her service.

9. It was further submitted that the Appellant continues to earn approximately ₹40,000/- per month through private tuitions, and is further drawing a monthly pension of ₹2,000/-, resides in a self-acquired residential property, and has maturity proceeds from a **Life**



Insurance Corporation⁴ policy, thereby securing a steady stream of income. On these premises, the Respondent argued that the Appellant is financially independent and in no manner indigent or dependent.

10. Conversely, the Respondent averred that he has been unemployed since 2017, is devoid of any regular income or fixed assets, and is compelled to reside with his brother for basic sustenance. Moreover, the Respondent, in his reply to the appeal, has brought on record that he remains burdened by significant outstanding debts, having borrowed a sum of ₹10,00,000/- from his brother and ₹13,00,000/- from a friend, solely to meet his subsistence needs and to address pressing medical exigencies. It is further submitted that the Respondent was constrained to discharge substantial liabilities arising out of accumulated credit card dues, which had accrued solely on account of prolonged financial hardship and the absence of any regular income. The Respondent has additionally alleged that the Appellant is seeking to unjustly profiteer from the judicial process by raising inflated and unfounded claims, devoid of any substantiating basis.

ANALYSIS:

11. We have considered the submissions made by the Learned Counsels for the parties and have perused the material on record including the income affidavits.

12. The issue arising for consideration in the present appeal pertains to the rejection of the claim for maintenance *pendente lite* and expenses of proceedings made by the Appellant under Section 24 of the Act.

⁴ LIC



13. Before embarking upon the merits of the appeal, it is apposite to examine the legislative intent underlying Section 24 of the Act. The primary object of this provision is to ensure that in matrimonial proceedings, the spouse who is genuinely unable to maintain themselves or to meet the expenses of the proceedings is not placed at a procedural disadvantage. The law ensures that nobody is disabled from prosecuting or defending the matrimonial case by starvation or lack of funds. The law in this regard has been succinctly laid down by the Hon'ble Supreme Court in ***Neeta Rakesh Jain v. Rakesh Jeetmal Jain***⁵.

14. The invocation of Section 24 is not to be construed as an automatic entitlement. The discretion conferred upon the Court under this provision is wide, and must be exercised judiciously, keeping in view the financial standing, independent income, and overall circumstances of both parties. The law in this regard has been succinctly laid down by the Hon'ble Supreme Court in ***Sukhdev Singh v. Sukhbir Kaur***⁶, and ***Manish Jain v. Akanksha Jain***⁷.

15. Section 24 is to ensure basic sustenance during litigation, not to impose undue financial burden or to match the lifestyle of the other spouse. Furthermore, it bears emphasis that Section 24 is not intended to act as a substitute for maintenance obligations under personal law. Rather, it is confined to the grant of *pendente lite* maintenance and expenses of litigation in the course of matrimonial proceedings. Importantly, the statute contemplates applications from either spouse, and in no manner exempts the applicant from demonstrating genuine financial distress.

⁵ (2010) 12 SCC 242.

⁶ 2025 INSC 197.

⁷ (2017) 15 SCC 801.



16. The learned counsel for the Respondent submits that the appellant is a highly qualified individual, and had retired as a Senior Teacher in July 2014. The Respondent also submits that the appellant is residing with her two adult sons, both of whom are employed and earning well, and are thus in a position to support her financially.

17. While conferring maintenance, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The Court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The law in this regard has been succinctly laid down by the Hon'ble Supreme Court in *Manish Jain v. Akanksha Jain (supra)*, and *Rajnish v. Neha*.⁸

18. The aforesaid principle of law has been reaffirmed by the Hon'ble Supreme Court in *Kiran Jyoti Maini v. Anish Pramod Patel*⁹, wherein, albeit in the context of permanent alimony, the Hon'ble Court observed that while it is indeed the obligation of the husband to maintain his wife and children, the same must be assessed in light of his financial capacity and ability to pay. The Court further emphasised the necessity of striking a just balance between the rights and interests of both parties in determining such claims.

19. Reliance is also placed on the decision of the Learned Single Judge of this Court in *Rishi Dev Anand v. Devinder Kaur*¹⁰, wherein the husband's prolonged illness and lack of salary during the relevant period were duly taken into account while deciding the question of

⁸ (2021) 2 SCC 324.

⁹ 2024 SCC OnLine SC 1724.

¹⁰ AIR 1985 DELHI 40.



maintenance. The Court therein held that when the husband was without any income due to medical incapacity, and simultaneously bearing the responsibility of maintaining his daughter, it would be unjust to saddle him with maintenance liability for that period. Such consideration of financial incapacity and bona fide hardship has also guided the approach of this Court in the present matter.

20. This Court notes the submission advanced on behalf of Respondent, who is stated to be more than 70 years of age, rendering him unfit for any gainful employment. It is further brought on record that the Respondent was previously employed with Reliance Communication till 2017; however, owing to the company's financial collapse and subsequent insolvency proceedings, he was deprived of all retiral benefits, including pension and final settlement dues. In addition, as evident from the reply to the appeal filed by the Respondent before this Court, it emerges that the Respondent has had to borrow substantial sums - ₹10,00,000/- from his brother and ₹13,00,000/- from a friend, Ms. Nazneen - for the purpose of meeting his basic living expenses. These liabilities, incurred solely for sustenance, remain outstanding and unpaid, owing to the Respondent's continuing financial incapacity.

21. In the present case, it is clear that the Respondent's financial frailty, compounded by his advanced age, and loss of post-retirement entitlements, weighs significantly against imposing any further pecuniary obligation upon him.

22. The record reflects that the Appellant has been residing separately of her own volition for over three decades, and during this extended period of time, never felt the need to seek any relief from the Courts or assistance even. In fact, as is evident from the pleadings, it



appears that the present action has been actuated by the Appellant upon the gaining of the knowledge of the alleged second marriage and the transaction in respect of the sale of the property.

23. It stands placed on record that the Appellant is in possession of matured LIC policies in her name. The Appellant is also residing with her two sons, both of whom appear to be gainfully employed. Though there appears to be some whatsapp chats of the year 2020 and 2021 where one of the sons was asking for money, the income affidavit of the appellant suggests that both sons are having independent income. It was also stated by the counsel that both sons are independently earning. In light of these facts, it appears that the Appellant has adequate financial resources and support systems available to her.

24. The Appellant's claim that she is sustaining herself on donations from her former students does not appear to be supported by any evidence. The fact that there are various sums that are deposited by unrelated persons, without necessary proof in support, cuts no ice in favour of either of the parties. However, it clearly leads us to conclude that the Appellant has some source of income to enable her to take care of herself.

25. In light of the above authoritative pronouncements and in the absence of any persuasive evidence justifying the Appellant's claim of the interim maintenance, this Court is of the considered view that the Respondent should not be burdened with the obligation to provide interim maintenance, particularly when his own financial, physical and emotional conditions are visibly strained.

26. In our considered opinion, the income of the Appellant is sufficient to maintain herself, and as such, the learned Family Court



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has rightly dismissed the application filed by the Appellant under Section 24 of the Act.

27. We do not find any infirmity in the Impugned Order passed by the learned Family Court. The appeal is, accordingly, dismissed. However, it is made clear that observations made in this Order do not tantamount to expression of any opinion on the merits of the case that is pending before the learned Family Court.

**ANIL KSHETARPAL,
(JUDGE)**

**HARISH VAIDYANATHAN SHANKAR,
(JUDGE)**

AUGUST 04, 2025/rk/ds/kr